IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 6148 of 2007(F)

PETITIONER:

P.A. EAPEN, PEEDIKAYIL THEKKETHIL,
NARAKATHANI P.O., VENNIKULAM,
PURAMATTOM VILLAGE, MALLAPPALLY TALUK,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.P.JACOB VARGHESE
SRI.TOM JOSE (PADINJAREKARA)
SRI.V.MANOJ KUMAR
SRI.VARUGHESE M EASO
SMT.PRAISHEEL PRAKASAM
SRI.VIVEK VARGHESE P.J.
SRI.K.G.ARUN

RESPONDENTS:

1. STATE OF KERALA, REP. BY SECRETARY,
DEPARTMENT OF CO-OPERATION, TRIVANDRUM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, PATHANAMTHITTA.

3. SPECIAL SALE OFFICER,
THIRUVALLA EAST CO-OPERATIVE BANK,
ERAVIPEROOR.

4. ARBITRATOR, OFFICE OF THE
THIRUVALLA EAST CO-OPERATIVE BANK
THIRUVALLA.

5. THIRUVALLA EAST CO-OPERATIVE BANK,
REP.BY ITS GENERAL MANAGER,
ERAVIPEROOR.

BY ADV. SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

==========

W.P.(C).No.6148 of 2007

==========

Dated this the 26th day of February, 2007

J U D G M E N T

A defaulter in payment of amounts due to the 5th respondent bank is the petitioner herein. The bank initiated coercive proceedings for recovery of the amount. Earlier the petitioner approached this court by filing W.P(C).No. 3994/2006, in which the bank was directed to consider the petitioner's claim for payment of the amount in instalments on payment of a portion of the outstanding dues. The petitioner did not comply with the same. The petitioner again approached this Hon'ble Court with W.P(C).No.27471/2006, in which also indulgence was shown by this court in permitting the petitioner to pay 10 per cent of the amount and directed the bank to consider the claim of the petitioner for benefit of one time settlement scheme. Even that, the petitioner did not comply within time. The

petitioner has again approached this court when the bank continued with the coercive proceedings for recovery of the amount. Ext.P10 notice has been issued for sale of the properties mortgaged. The petitioner has now filed this writ petition challenging Ext.P10.

2. Heard both sides.

3. Although the circumstances do not warrant showing any further indulgence to the petitioner, I am inclined to take a lenient view on certain conditions. In the above circumstances, this writ petition is disposed of as follows:

The petitioner shall pay an amount of Rs.2 lakhs within one month from today. The balance amount shall be paid in six equal monthly instalments starting from 26.4.2007. If the petitioner pays Rs.2 lakhs within one month, the 5th respondent bank shall consider and pass orders on the application for one time settlement submitted by the petitioner, if the scheme is still in force. However, the petitioner shall continue to pay the

instalments in time. The bank shall dispose of the application for one time settlement within one month from the date of payment of Rs.2 lakhs as directed above. Further payment of the instalments shall be in accordance with the orders to be passed by the bank in the application for one time settlement. However, the petitioner shall not make any default in payment of any of the instalments as directed above. If the petitioner does, the bank would be free to recover the entire amount in one lump sum without issuing further orders or proceedings in the matter.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.